

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>GERALD SINGLETON ,</b>	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 11-1431
	)	
v.	)	Judge Cathy Bissoon
	)	Magistrate Judge Lisa Pupo Lenihan
<b>PITTSBURGH BOARD OF</b>	)	
<b>EDUCATION, et. al.,</b>	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

This case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 72.C and 72.D of the Local Rules for Magistrates.

On May 24, 2013, the Magistrate Judge issued a Report and Recommendation (Doc. 89) recommending that Defendants' Pittsburgh Public School District, Dante Borgini, Latisha Cassidy McClelland, Kenneth Scott, Margaret Seig and Jody Spolar's motion to dismiss (Doc. 77) be granted with prejudice as to all claims asserted in Plaintiff's amended complaint<sup>1</sup> (Doc. 73), except for Plaintiff's claims for disparate treatment and hostile work environment, which the Magistrate Judge recommended be dismissed without prejudice.

Furthermore, the Magistrate Judge recommended that Defendant Robert Fadzen's motion to dismiss (Doc. 75) be granted as to all claims asserted in Plaintiff's amended complaint, except

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<sup>1</sup> As noted by the Magistrate Judge, in his amended complaint, Plaintiff, who is proceeding *pro se*, appears to raise a due process violation claim under the Fourteenth Amendment regarding his termination, as well as a claim that Defendants conspired to deprive him of his due process rights. And although not specifically pled, Plaintiff also sets forth allegations suggesting claims for hostile work environment and disparate treatment against Defendant Pittsburgh Public School District as well as a defamation claim against Defendant Robert Fadzen.

for Plaintiff's state law claim for defamation. The Magistrate Judge recommended that the Court refrain from exercising supplemental jurisdiction over Plaintiff's defamation claim, and dismiss the claim without prejudice, allowing Plaintiff to, if he so desires, file the claim in state court.

Service of the Report and Recommendation was made on the parties, Plaintiff timely filed Objections (Doc. 90) and Defendants filed a Response (Doc. 91).

After a *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, Objections thereto and Response, it is hereby ORDERED that the Report and Recommendation of May 24, 2013 is adopted as the opinion of the Court.

IT IS ORDERED that Defendants' Pittsburgh Public School District, Dante Borgini, Latisha Cassidy McClelland, Kenneth Scott, Margaret Seig and Jody Spolar's motion to dismiss (Doc. 77) is granted with prejudice as to all claims, except for Plaintiff's claims for disparate treatment and hostile work environment.

As noted by the Magistrate Judge, although not formally pled, the allegations contained in Plaintiff's amended complaint (Doc. 73) suggest Plaintiff may be attempting to assert Title VII claims for hostile work environment and/or disparate treatment based on race. It is not clear, however, whether Plaintiff exhausted his administrative remedies before the EEOC. Therefore, to the extent asserted, Plaintiff's claims for disparate treatment and hostile work environment are dismissed without prejudice. If Plaintiff has exhausted his administrative remedies before the EEOC, Plaintiff's second amended complaint, if filed, should set forth sufficient facts to state a plausible disparate treatment and/or hostile work environment claim against the School District, including facts that demonstrate he exhausted his administrative remedies.

Plaintiff is hereby granted leave to file a second amended complaint against Defendant Pittsburgh Public School District regarding any hostile work environment and/or disparate treatment claim no later than July 22, 2013.

IT IS FURTHER ORDERED that Defendant Robert Fadzen's motion to dismiss (Doc. 75) is granted and all claims, except for the defamation claim, are dismissed with prejudice. The Court will refrain from exercising supplemental jurisdiction over Plaintiff's defamation claim, and dismiss the claim without prejudice.

July 1, 2013

s/ Cathy Bissoon  
Cathy Bissoon  
United States District Judge

cc:

All attorneys of record (via CM/ECF e-mail).